

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

Rep. Robert “Renny” Cushing
Rep. David Cote
Rep. Kendall Snow
Rep. Katherine Rogers
Rep. Paul Berch
Rep. Diane Langley
Rep. Charlotte DiLorenzo
New Hampshire Democratic Party

Civil Action No: 1:21-cv-00147

v.

Rep. Sherman Packard
Speaker of the NH House of Representatives
(in his official capacity only)

EMERGENCY MOTION FOR EXPEDITED STATUS CONFERENCE

NOW COME the Plaintiffs in this matter, by their attorneys, and respectfully submit the following Emergency Motion for Expedited Status Conference in light of the First Circuit’s Opinion in *Cushing v. Packard*, No. 21-1177 (Apr. 8, 2021). In support thereof, Plaintiffs state as follows:

1. On February 15, 2021, Plaintiffs moved in this Court for a Temporary Restraining Order and/or Preliminary Injunction on an expedited basis. (docket nos. 1 &2).
2. On February 18, 2021, Defendant filed its Objection, (docket no. 17), and on February 19, 2021, Plaintiffs filed their Reply, (docket no. 20).
3. This Court held a hearing via Zoom on Plaintiffs’ Motion for Temporary Restraining Order and/or Preliminary Injunction and ordered additional briefing on the issue of legislative immunity.

4. The Parties filed additional briefing on legislative immunity on February 20, 2021 (docket nos. 22, 23) and Proposed Findings and Rulings on February 21, 2021 (docket nos. 24, 25).

5. On February 22, 2021, the Court issued an Order denying Plaintiffs' Motion for Temporary Restraining Order or Preliminary Injunction. (docket no. 26).

6. Plaintiffs filed a timely Notice of Appeal on March 2, 2021. (docket no. 27).

7. Plaintiffs requested expedited appellate review on March 5, 2021.

8. On March 8, 2021, the First Circuit issued an Order setting an expedited briefing and oral argument schedule.

9. The Parties fully briefed the legislative immunity issue for the Court, and the Court held oral argument on April 5, 2021.

10. On April 8, 2021, the First Circuit issued an Opinion holding that both Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act abrogate legislative immunity, vacating the February 22 Order, and remanding for this Court to consider Plaintiffs' substantive claims. (Apr. 8 Opinion at 11-14). The First Circuit also entered Judgment the same day. (Opinion and Judgment attached hereto as Ex. A for the Court's convenience).

11. Consequently, Plaintiffs respectfully move this Court for a status conference on Monday, April 12, 2021 to discuss the schedule for a further proceeding on Plaintiffs' Motion for Preliminary Injunction (or other relief) in accordance with the First Circuit's Opinion. The House has continued to hold sessions while the district court's order was in effect and the harm alleged in the Complaint continues unabated. Now that the district court's order has been reversed, Plaintiffs request immediate relief under the ADA and Rehabilitation Act.

12. Counsel for Plaintiffs has conferred with Counsel for Defendant who objects the relief sought herein.

13. Due to the nature of the relief sought, no memorandum of law is required. See Local Rule 7.1.

WHEREFORE, Plaintiffs respectfully request that the Court schedule a status conference for Monday, April 12, 2021, or as soon thereafter as the Court's schedule permits.

Respectfully Submitted,

NEW HAMPSHIRE DEMOCRATIC PARTY

By its attorneys

Dated: April 9, 2021

/s/ William E. Christie

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and

REP. ROBERT "RENNY" CUSHING
(INDIVIDUALLY AND IN HIS CAPACITY AS
MINORITY LEADER OF THE NH HOUSE OF
REPRESENTATIVES), REP. DAVID COTE,
REP. KENDALL SNOW, REP. KATHERINE
ROGERS, REP. PAUL BERCH, REP. DIANE
LANGLEY, REP. CHARLOTTE DILORENZO

By and through their attorneys

Date: April 9, 2021

/s/ Israel Piedra

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Date: April 9, 2021

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Date: April 9, 2021

/s/ William E. Christie
William E. Christie, #11255